

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE**

LAKAISHA GALLAHER,
Plaintiff,

v.

SOUTHERN TUBE FORM, LLC, *et al.*,
Defendants.

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**No. 3:09-CV-234
(Phillips)**

MEMORANDUM AND ORDER

On May 29, 2009, the Honorable C. Clifford Shirley, Jr., filed a Report and Recommendation (R&R) [Doc. 3] in which he recommended that plaintiff's complaint be dismissed under 28 U.S.C. § 1915, as frivolous, for failure to state a federal claim upon which relief can be granted, but without prejudice to the plaintiff's rights to refile her state claims in state court. Although plaintiff has not objected to the R&R, she did file an amended complaint in which she states that "I was advised by Supreme Court of the United States to take case back to lower court." Given that the plaintiff is proceeding *pro se*, to the extent that her amended complaint can be considered an objection to the R&R, the court will treat it as such.

In recommending that the complaint herein be dismissed, the magistrate judge notes that this matter is identical to the complaint filed by plaintiff in a previous case, Gallaher v. Southern Tube Form, LLC, Civil Action No. 3:06-CV-326 filed August 28, 2006.

The parties in the two cases are identical, as are the claims, which stem from the plaintiff's alleged discriminatory termination in November 2005 by her employer, defendant Southern Tube Form, LLC. The court granted summary judgment to defendants in Civil Action No. 3:06-CV-326 and dismissed plaintiff's claims on September 17, 2007. The record shows that plaintiff filed an appeal with the Sixth Circuit, but her appeal was denied. Plaintiff then sought a writ of certiorari from the Supreme Court, but that request was denied. Contrary to plaintiff's assertion, this court has not received any order from the Supreme Court allowing her to refile her dismissed cause of action. Thus, the magistrate judge found that her claims have been fully adjudicated on the merits, and plaintiff's instant complaint is barred by the doctrine of claim preclusion.

Because the instant complaint alleges the same causes of action as were alleged and dismissed in Civil Action No. 3:06-CV-326, the doctrine of claim preclusion prohibits the relitigation of those causes of action. The court being in complete agreement with the magistrate judge, the Report and Recommendation [Doc. 3] filed by the Honorable C. Clifford Shirley, United States Magistrate Judge, on May 29, 2009, is hereby **ACCEPTED IN WHOLE** whereby plaintiff's complaint is **DISMISSED**, but without prejudice to plaintiff's rights to refile her state claims in the proper state court.

IT IS SO ORDERED.

ENTER:

s/ Thomas W. Phillips
United States District Judge